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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JESUS MANUEL PEREZ,

Plaintiff,

v.

CITY OF TULARE, CORPORAL
GERMAN BARRIOS, and DOES 1-5.

Defendants.

Case No.

**COMPLAINT FOR VIOLATION OF
CIVIL AND CONSTITUTIONAL RIGHTS

DEMAND FOR JURY TRIAL**

I. INTRODUCTION

This case involves the unconstitutional arrest of JESUS MANUEL PEREZ based upon a facially invalid arrest warrant.

II. JURISDICTION & VENUE

1. This Court has original jurisdiction of the federal claims under 28 U.S.C. § 1331 (in that they arise under the United States Constitution) and § 1343(a)(3) (in that the action is brought to address deprivations, under color of authority, of rights, privileges, and immunities secured by the United States Constitution). This Court has supplemental jurisdiction of the state law claims under 28 U.S.C. § 1367.

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendants are located in the Eastern District of California and because the acts and/or omissions stated herein occurred in the Eastern District of California.

3. Intra-district venue is proper in the Fresno Division of the Eastern District of

1 California pursuant to E.D. Cal. L.R. 120(d) because the claims asserted herein arise from acts
2 and/or omissions which occurred in the County of Tulare.

3 **III. EXHAUSTION**

4 4. JESUS MANUEL PEREZ submitted a timely Government Claim to the CITY OF
5 TULARE on August 21, 2023. The CITY OF TULARE rejected the claim in writing on October
6 6, 2023.

7 **IV. PARTIES**

8 5. Plaintiff JESUS MANUEL PEREZ is a resident of the County of Riverside,
9 California. Plaintiff brings this action in his individual capacity on behalf of himself.

10 6. Defendant CITY OF TULARE is a “public entity” within the definition of Cal.
11 Gov. Code § 811.2.

12 7. Defendant CORPORAL GERMAN BARRIOS is, and at all times material herein
13 was, a law enforcement officer employed by Defendant CITY OF TULARE and the Tulare Police
14 Department, acting within the course and scope of his employment. CORPORAL GERMAN
15 BARRIOS is sued in his individual capacity.

16 8. Defendant DOES 1 to 5 are and/or were agents or employees of Defendant CITY
17 OF TULARE and/or the Tulare Police Department, acting within the scope of that employment
18 and under color of state law. Defendant DOES 1 to 5 true and correct names and identities are not
19 currently known. Defendant DOES 1 to 5 true and correct names and identities will be substituted
20 when ascertained.

21 **V. GENERAL ALLEGATIONS**

22 9. At all times relevant herein, all wrongful and unlawful acts described herein were
23 performed under color of state law and/or in concert with or on behalf of those acting under the
24 color of state law.

25 10. On February 28, 2023 officers from the City of Tulare Police Department
26 responded to a residence regarding the alleged sexual assault of a minor by an adult, Jesus Olvera
27 Perez.

28 11. The minor victim stated that she met Jesus Olvera Perez through Facebook and

1 agreed to meet Jesus Olvera Perez in front of her residence.

2 12. Jesus Olvera Perez arrived at her residence and she entered his vehicle where the
3 sexual assault allegedly occurred.

4 13. CORPORAL GERMAN BARRIOS subsequently conducted an in-person meeting
5 with Jesus Olvera Perez who allegedly admitted to meeting the minor via Facebook, admitted
6 meeting her at her residence and admitted engaging in unlawful acts with the minor.

7 14. CORPORAL GERMAN BARRIOS obtained the complete name, birthdate,
8 physical characteristics and other identifying information from Jesus Olvera Perez during his
9 face-to-face meeting with Jesus Olvera Perez. The minor victim also showed a picture of Jesus
10 Olvera Perez to CORPORAL GERMAN BARRIOS from the suspect's Facebook page, which
11 CORPORAL GERMAN BARRIOS was able to copy.

12 15. Jesus Olvera Perez has a different date of birth and physical characteristics than
13 JESUS MANUEL PEREZ and these factual differences were known to CORPORAL GERMAN
14 BARRIOS.

15 16. On March 13, 2023, CORPORAL GERMAN BARRIOS completed a "Statement
16 of Probable Cause" ("Probable Cause Statement") and submitted it to the Tulare County District
17 Attorney's Office, so that an arrest warrant could be issued for Jesus Olvera Perez.

18 17. While preparing the Probable Cause Statement, CORPORAL GERMAN
19 BARRIOS failed to identify the correct suspect, Jesus Olvera Perez, and instead incorrectly
20 identified the suspect in the Probable Cause Statement as JESUS MANUEL PEREZ.
21 CORPORAL GERMAN BARRIOS also included JESUS MANUEL PEREZ's date of birth and
22 not Jesus Olvera Perez's date of birth. The Probable Cause Statement did not include any physical
23 characteristics and failed to describe with particularity the individual that CORPORAL
24 GERMAN BARRIOS sought to arrest, Jesus Olvera Perez.

25 18. CORPORAL GERMAN BARRIOS submitted the Probable Cause Statement that
26 he knew to be false to the Tulare County District Attorney's Office for the issuance of an arrest
27 warrant for the arrest of JESUS MANUEL PEREZ, even though CORPORAL GERMAN
28 BARRIOS had no facts or evidence that there was probable cause for the arrest of JESUS

1 MANUEL PEREZ.

2 19. Deputy District Attorney Kelly Habroun, not knowing that CORPORAL
3 GERMAN BARRIOS had failed to identify the correct suspect, drafted a Declaration in Support
4 of Arrest Warrant, and attached the Probable Cause Statement from CORPORAL GERMAN
5 BARRIOS, and submitted them to a Tulare County Superior Court Judge. The Judge
6 subsequently issued a facially invalid arrest warrant for JESUS MANUEL PEREZ that failed to
7 meet the particularity requirement under the Fourth Amendment.

8 20. On or about May 24, 2023, JESUS MANUEL PEREZ went to the work release
9 office in Banning, California. The work release program is run by the Tulare County Sheriff's
10 Department. JESUS MANUEL PEREZ was completing a work release sentence after previously
11 entering a plea of no contest to a DUI charge.

12 21. While checking in at the work release office, JESUS MANUEL PEREZ was
13 informed by the work release officer that there was a felony warrant for his arrest for allegedly
14 engaging in the forcible rape of a minor (Penal Code Section 287(b)(1)). The warrant was issued
15 out of Tulare County.

16 22. JESUS MANUEL PEREZ immediately informed the work release officer that they
17 had the wrong person. The Tulare County Sheriff's Department checked the identifying
18 information on the warrant, informed JESUS MANUEL PEREZ that he was the person listed on
19 the warrant and placed him in custody.

20 23. JESUS MANUEL PEREZ was subsequently transported by patrol vehicle to the
21 Riverside County Jail, which is operated by the Riverside County Sheriff's Department where he
22 remained in custody for approximately 3 days.

23 24. JESUS MANUEL PEREZ was then transferred to Tulare County where he
24 remained in custody for approximately 3 days.

25 25. On May 31, 2023, JESUS MANUEL PEREZ appeared before a Judge in Tulare
26 County.

27 26. JESUS MANUEL PEREZ had been able to retain a private criminal defense
28 attorney while in custody. The private attorney informed the Deputy District Attorney and Court

1 that the wrong person had been arrested.

2 27. After investigation by the District Attorney, Sheriff and Court, all parties agreed
3 that CORPORAL GERMAN BARRIOS had identified the wrong suspect in his probable cause
4 statement, that JESUS MANUEL PEREZ should not have been identified as a suspect or arrested,
5 and JESUS MANUEL PEREZ was ordered to be immediately released from custody.

6 28. The wrongful and unlawful arrest of JESUS MANUEL PEREZ should never have
7 occurred and has caused JESUS MANUEL PEREZ to suffer economic and non-economic
8 damages.

9 29. JESUS MANUEL PEREZ is now identified by the Department of Justice as
10 having been arrested for the forcible rape of a minor.

11 30. A criminal felony complaint was filed in Tulare County Superior Court identifying
12 JESUS MANUEL PEREZ as a child rapist (Tulare County Superior Court Case No.
13 PCF440689). The criminal complaint is a public record and has been accessed by potential
14 employers and prospective landlords.

15 31. JESUS MANUEL PEREZ was forced to spend approximately 6 days in custody in
16 both Riverside County and Tulare County jails prior to being released.

17 32. JESUS MANUEL PEREZ lost his only source of income and employment as he
18 was unable to work while in custody and no employer wants to employ an individual alleged to
19 have committed sex crimes against a child.

20 33. JESUS MANUEL PEREZ has been unable to rent a new residence/apartment, as
21 potential landlords have rejected his applications based upon this wrongful and unlawful arrest.

22 34. JESUS MANUEL PEREZ has had to explain to friends, family and third parties
23 that he was not involved in any unlawful acts with a child.

24 35. JESUS MANUEL PEREZ has suffered extreme mental and emotional distress as a
25 result of his unlawful and wrongful arrest by CORPORAL GERMAN BARRIOS, including
26 surprise and disbelief, anger, humiliation, embarrassment, anxiety, shock and depression. These
27 false allegations have resulted in JESUS MANUEL PEREZ becoming extremely isolated and
28 withdrawn from his social and support networks.

VI. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

UNREASONABLE SEIZURE

(42 U.S.C. Section 1983)

Against Defendants BARRIOS and DOES 1-5

36. Plaintiff JESUS MANUEL PEREZ re-alleges and incorporates by reference paragraphs 1 through 35, as though fully set forth herein.

37. The actions of defendants CORPORAL GERMAN BARRIOS and DOES 1-5 alleged herein, including but not limited to obtaining a facially invalid arrest warrant for the arrest of JESUS MANUEL PEREZ, even though he had committed no crime and had in fact done nothing wrong, for the forcible rape of a minor, deprived JESUS MANUEL PEREZ of his Fourth Amendment right to be free from an unreasonable seizure of his person and unconstitutional deprivation of his liberty.

38. CORPORAL GERMAN BARRIOS unlawfully, wrongfully and without probable cause sought and obtained an arrest warrant that resulted in the seizure of Plaintiff.

39. CORPORAL GERMAN BARRIOS acted intentionally when he prepared a false and factually untrue Probable Cause Statement for the seizure of JESUS MANUEL PEREZ.

40. The Seizure of JESUS MANUEL PEREZ was unreasonable as he had committed no crime and there was no evidence or facts connecting him to any unlawful acts.

41. As a direct and proximate result of said acts and/or omissions by CORPORAL GERMAN BARRIOS, JESUS MANUEL PEREZ suffered injuries and damages as alleged herein and to which JESUS MANUEL PEREZ is entitled to recover damages for past and future medical care, past and future wage loss, past and future pain and suffering, past and future mental and emotional distress, costs and attorneys' fees.

42. The aforementioned acts and/or omissions of CORPORAL GERMAN BARRIOS was willful, wanton, malicious and done with conscious or reckless disregard for the rights and safety of JESUS MANUEL PEREZ, thereby entitling plaintiff to an award of exemplary and punitive damages according to proof against CORPORAL GERMAN BARRIOS and DOES 1-5.

SECOND CLAIM FOR RELIEF

“Bane Act”

(California Civil Code Section 52.1 et. seq.)

Against Defendants BARRIOS, DOES 1 to 5 and CITY OF TULARE

43. Plaintiff JESUS MANUEL PEREZ re-alleges and incorporates by reference paragraphs 1 through 42, as though fully set forth herein.

44. The actions of Defendants CORPORAL GERMAN BARRIOS, CITY OF TULARE and DOES 1 to 5, as alleged herein, including but not limited to submitting a false and fraudulent Probable Cause Statement to the Tulare County District Attorney were unreasonable and unlawful violations of the U.S. Constitution as well as state law. Defendants’ conduct is therefore actionable under California Civil Code Section 52.1 et seq., the “Bane Act.”

45. As a direct and proximate result of said acts and/or omissions by Defendants, JESUS MANUEL PEREZ seeks to recover special and general damages. Plaintiff is also entitled to recover any and all statutory penalties available as well as attorneys’ fees and costs.

46. Defendant CITY OF TULARE is liable for the wrongful acts of Defendants CORPORAL GERMAN BARRIOS and DOES 1 to 5 pursuant to California Government Code Section 815.2(a), which provides that a public entity is liable for injuries caused by its employees within the scope of employment if the employee’s acts would subject them to liability.

47. The aforementioned acts and/or omissions of said individual Defendants were willful, wanton, malicious and done with conscious or reckless disregard for the rights and safety of plaintiff, thereby entitling plaintiff to an award of exemplary and punitive damages according to proof against defendants CORPORAL GERMAN BARRIOS and DOES 1 to 5.

THIRD CLAIM FOR RELIEF

False Arrest/False Imprisonment

(California State Common law)

Against Defendants BARRIOS, DOES 1-5, and City of Tulare

48. Plaintiff JESUS MANUEL PEREZ re-alleges and incorporates by reference paragraphs 1 through 47, as though fully set forth herein.

1 49. The Defendant, CORPORAL GERMAN BARRIOS, intentionally sought to
2 detain, arrest and incarcerate JESUS MANUEL PEREZ without legal authority, as CORPORAL
3 GERMAN BARRIOS knew and was aware that JESUS MANUEL PEREZ had committed no
4 crime.

5 50. The Defendant, CORPORAL GERMAN BARRIOS knew that he lacked probable
6 cause for the arrest of JESUS MANUEL PEREZ, but sought an arrest warrant for the felony
7 crime of forcible rape involving a minor.

8 51. JESUS MANUEL PEREZ was harmed as a result of CORPORAL GERMAN
9 BARRIOS's acts and omissions, and has suffered both past and future monetary damages,
10 including lost wages, lost profits, the denial of housing, and mental and emotional distress.

11 52. Defendant CITY OF TULARE is indirectly and vicariously liable, through the
12 principles of *respondeat superior*, for injuries proximately caused by acts or omissions of its
13 employees acting within the scope of their employment.

14 53. Defendants CORPORAL GERMAN BARRIOS and DOES 1 to 5's acts and/or
15 omissions constituted oppression, fraud and/or malice thereby entitling Plaintiff to an award of
16 exemplary and punitive damages against the individual defendants according to proof.

17 54. As a direct and proximate result of said tortious acts and/or omissions by
18 defendants, plaintiff JESUS MANUEL PEREZ suffered the injuries alleged herein, entitling him
19 to special damages and general damages for past and future mental and emotional distress.

20 **FOURTH CLAIM FOR RELIEF**

21 **Intentional Infliction of Emotional Distress**

22 **(California State Common Law)**

23 *Against Defendants BARRIOS, DOES 1 to 5 and CITY OF TULARE*

24 55. Plaintiff JESUS MANUEL PEREZ re-alleges and incorporates by reference
25 paragraphs 1 through 54, as though fully set forth herein.

26 56. Defendants CORPORAL GERMAN BARRIOS and DOES 1 to 5, acting or
27 purporting to act in the performance of their official duties as law enforcement officers and
28 knowing their conduct was unlawful, applied for an arrest warrant without probable cause against

1 JESUS MANUEL PEREZ. As a result of the above outrageous conduct, JESUS MANUEL
2 PEREZ suffered severe and extreme emotional and mental distress.

3 57. Defendant CITY OF TULARE is indirectly and vicariously liable, through the
4 principles of *respondeat superior*, for injuries proximately caused by acts or omissions of its
5 employees acting within the scope of their employment.

6 58. Defendants CORPORAL GERMAN BARRIOS and DOES 1 to 5's acts and/or
7 omissions constituted oppression, fraud and/or malice thereby entitling Plaintiff to an award of
8 exemplary and punitive damages against Defendants according to proof.

9 59. As a direct and proximate result of said tortious acts and/or omissions by
10 Defendants, plaintiff suffered the injuries alleged herein, entitling him to special and general
11 damages for past and future medical care and treatment and for mental and emotional distress.

12 **FIFTH CLAIM FOR RELIEF**

13 **"Negligence"**

14 **(California State Common Law)**

15 *Against Defendants BARRIOS, DOES 1 to 5 and CITY OF TULARE*

16 60. Plaintiff JESUS MANUEL PEREZ re-alleges and incorporates by reference
17 paragraphs 1 through 59, as though fully set forth herein.

18 61. Defendants CORPORAL GERMAN BARRIOS and DOES 1 to 5 have a duty as
19 officers applying for arrest warrants with a special relationship to arrestees to ensure that
20 individuals that have committed no crimes are free from being arrested without probable cause
21 and incarcerated.

22 62. Defendant CITY OF TULARE had a duty to properly train its officers in how to
23 apply for arrest warrants and how to properly submit Probable Cause Statements. Said duties are
24 defined by California State Law, law enforcement standards and CITY OF TULARE Police
25 Department policies.

26 63. Defendants breached their respective duties, and this breach directly and
27 proximately caused injuries and damages to Plaintiff as alleged herein.

28 64. As a direct and proximate result of said acts and/or omissions by Defendants

CORPORAL GERMAN BARRIOS, DOES 1 to 5, and the CITY OF TULARE, JESUS MANUEL PEREZ suffered injuries and damages as alleged herein and to which JESUS MANUEL PEREZ is entitled to recover damages for past and future medical care, past and future pain and suffering, and past and future mental and emotional distress.

65. Defendant CITY OF TULARE is liable for the wrongful acts of Defendants CORPORAL GERMAN BARRIOS, and DOES 1 to 5 pursuant to California Government Code Section 815.2(a), which provides that a public entity is liable for the injuries caused by its employees within the scope of employment if the employee's acts would subject them to liability.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

1. For compensatory, general and special damages against each Defendant, jointly and severally, in the amount proven at trial;
2. For punitive and exemplary damages against each individually named Defendant(s) in an amount appropriate to punish Defendant(s) and deter others from engaging in similar misconduct;
3. For an award of statutory penalties, pursuant to Cal. Civ. Code Section 52.1 and other statutes as may be applicable;
4. For costs and reasonable attorneys' fees pursuant to 42 U.S.C. section 1988, the Bane Act and as otherwise authorized by statute or law;
5. Such other and further relief as this Court may deem appropriate.

DATED: January 11, 2024

LAW OFFICE OF ROBERT CHALFANT

/s/ Robert Chalfant

ROBERT CHALFANT

Attorney for Plaintiff JESUS MANUEL PEREZ

JURY DEMAND

Plaintiff hereby requests a trial by jury.

DATED: January 11, 2024

LAW OFFICE OF ROBERT CHALFANT

/s/ Robert Chalfant

ROBERT CHALFANT

Attorney for Plaintiff JESUS MANUEL PEREZ